

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

February 25, 2002

D039262 Telford v. Westland Financial Services, Inc.

The order of dismissal is vacated and the appeal is reinstated.

D038390 People v. Varela

Judgment affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Huffman, J.

D037991 People v. Escalante

Judgment affirmed. Nares, J.; We Concur: Benke, Acting P.J., Haller, J.

D038197 In re the Marriage of Friedman

Judgment affirmed. Benke, Acting P.J.; We Concur: Huffman, J., McDonald, J.

D038827 In re Jennifer W., a Juvenile

The judgment is affirmed. Haller, J.; We Concur: Nares, Acting P.J., McDonald, J.

D036704 Martin et al. v. Department of Real Estate et al.

Judgment affirmed. Haller, J.; We Concur: Nares, Acting P.J., McDonald, J.

D036667 Lange v. White et al./Roadone, Inc.

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McDonald, J.

D038768 People v. Tucker

The judgment is affirmed. McIntyre, J.; We Concur: Kremer, P.J., McConnell, J.

D038193 Creighton et al. v. Cybex International, Inc., et al.

The trial court shall vacate the April 14, 1999 judgment entered in favor of defendants, and enter a summary judgment only as against Creighton.

The trial court shall enter a new order granting defendants' summary adjudication motion on *Healthline's* following claims: (1) Fourth Cause of Action for Breach of Fiduciary Duty; (2) Sixth Cause of Action for Interference with Contract; and (3) Seventh Cause of Action for Interference with Prospective Economic Advantage.

The trial court shall enter an order denying defendants' summary adjudication motion on *Healthline's* following causes of action: (1) First Cause of Action for Intentional Misrepresentation; (2) Second Cause of Action for Negligent Misrepresentation; (3) Third Cause of Action for Breach of Contract; (4) Fifth Cause of Action for Breach of the Implied Covenant of Good Faith and Fair Dealing; and (5) Ninth Cause of Action for Accounting.

The parties to bear their own costs on appeal. Haller, J.; We Concur: Nares, Acting P.J., McDonald, J.

D036553 Ricketts v. Compaction Plus, Inc. et al.

The judgment is reversed, and the court is ordered to enter a new judgment stating the net amount of monetary damages owed by CPI and Washington. The parties to bear their own costs on appeal.

Haller, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

February 25, 2002 (Continued)

D037748 Contursi v. Sullivan Transfer, A Freeman Company et al.

Upon filing a partial abandonment of appeal, the appeal as to respondent Brede-Washington, Inc. is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 19(b)). Each party to bear its own costs on appeal.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

February 26, 2002

D038356 In re T. S., a Juvenile

Judgment affirmed. McDonald, J., Benke, Acting P.J., McIntyre, J.

D038025 People v. Thompson

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., McConnell, J.

D036620 Children's Hospital & Health Center v. Sutherland et al.

The judgment is affirmed. Hospital to bear costs on appeal. McConnell, J.; We Concur: Kremer, P.J., Benke, J.

D038200 Hernandez et al. v. Ong et al.

The judgments are affirmed. The Ongs and Los Coyotes are entitled to costs on appeal. McDonald, J.; I Concur: Nares, J., I Concur and Dissent: Benke, J.

D038293 People v. Superior Court of San Diego County/Parker

We grant the People's petition and direct the trial court to vacate its order denying the People's motion for reconsideration and to enter a new order granting the motion for reconsideration and finding collateral estoppel bars Parker from contesting the underlying facts of the prior predicate convictions.

Benke, Acting P.J.; I Concur: Nares, J. I Dissent (by opinion): McDonald, J.

D038888 In re Gustavo M., a Juvenile

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., McConnell, J.

D039558 Williams v. Superior Court of San Diego County/People

Let a writ issue directing the superior court to vacate its ruling of February 5, 2002, and enter an order granting the peremptory challenge. This opinion is made final immediately as to this court. (Cal. Rules of Court, rule 24(d).) Kremer, P.J.; We Concur: Haller, J., McIntyre, J.

D037522 Mortenson v. McCormick

The order appealed from is affirmed. Huffman, J.; We Concur: Kremer, P.J., Benke, J.

D038131 In re Z. S. et al., Juveniles

D038666 In re Z. S. et al., Juveniles

(Consolidated) The judgments are affirmed. Kremer, P.J.; We Concur: Benke, J., McDonald, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

February 27, 2002

D038349 People v. Ford

Judgment affirmed. Haller, J.; We Concur: Benke, Acting P.J., Huffman, J.

D038544 In re Pedro M., a Juvenile

The order denying Pedro's section 388 petition and placing P.M. in long-term foster care is reversed. The matter is remanded to the juvenile court with directions to conduct a section 388 hearing. McIntyre, J.; We Concur: Haller, Acting P.J., McDonald, J.,

D036534 Truck Insurance Exchange v. Sullivan, Kelly & Associates, Inc.

The judgment is affirmed. Each side shall bear its own costs on appeal. Kremer, P.J.; We Concur: Benke, J., Huffman, J.

D035756 People v. Weisman

The petition for rehearing is denied.

D039001 Hayek et al. v. Jordan et al.

Upon written request filed by appellant, the appeal is dismissed.

D036331 First Western National Bank v. Corona

The judgment is affirmed. McDonald, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D036686 Zepeda v. Washington Mutual Bank et al.

The judgment is affirmed. Respondents are entitled to costs on appeal. McDonald, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D038947 People v. Landa

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 37(b). The appeal is dismissed.

D037309 Cullett v. T.B. Penick & Sons, Inc.

The trial court's order on costs is reversed and remanded for further proceedings consistent with the views we have expressed. Cullett to recover his costs on appeal. Benke, Acting P.J.; We Concur: Huffman, J., O'Rourke, J.

D035997 Costco Companies, Inc. v. Gallant et al.

The judgment is reversed as to Costco's 34-day prohibition on expressive activities and its 5/30 limitation and remanded with instructions to enter a judgment consistent with the views we have expressed; in all other respects the judgment is affirmed. Costco to recover its costs on appeal. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D036625 People v. Quillin

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

February 27, 2002 (Continued)

D037023 Rivera v. San Diego Police Department et al.

The judgment is affirmed, including the award of costs of suit. However, the respective costs on appeal are to be borne by each party. Huffman, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

February 28, 2002

D038832 Michael G. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

Let a writ issue directing the juvenile court to vacate its order setting a section 366.26 hearing and to comply with the notice provisions of the ICWA. If after proper inquiry and notice the ICWA does not apply or a tribe does not intervene, the disposition orders shall be reinstated. The stay issued on January 17, 2002, will vacate upon issuance of the remittitur. This opinion is final immediately as to this court. McIntyre, J.; We Concur: Kremer, P.J., O'Rourke, J.

D038459 Marcoux v. State Board of Equalization

Judgment affirmed. Haller, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D038839 In re Joseph J., a Juvenile

The petition for rehearing is denied.

D039599 LeBeau et al. v. Superior Court of San Diego County/Henkel

The petition is denied.

D037223 Duran v. Herrera et al.

Judgment affirmed. Haller, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

D039286 In re Miller on Habeas Corpus

The petition is denied.

D039583 People v. Madsen

The denial of a motion for new trial is not appealable. Review must be sought by appeal from the final judgment. (Penal Code, section 1237(a).) The appeal is dismissed.

D037190 People v. Gooch

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D037183 Massie v. Stenehjem

The judgment is affirmed. Costs are awarded to respondent. McIntyre, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D037304 In re Marriage of Maciejewski

The judgment is affirmed. Nares, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D038878 In re Denell C., a Juvenile

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., McConnell, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

February 28, 2002 (Continued)

D039466 Mario O. v. Superior Court of County of San Diego/San Diego County Health and Human Services Agency

The attorney for petitioner Ronald R. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

D038350 People v. Tomlanovich

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D038713 People v. Tovar

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D039037 In re April T., a Juvenile

The judgment is affirmed. McDonald, J.; We Concur: Kremer, P.J., McIntyre, J.

D039221 In re Reese on Habeas Corpus

The petition is denied.

D037336 People v. Donnell

Judgment affirmed. Haller, Acting P.J.; We Concur: McIntyre, J., McConnell, J.

D037898 People v. Taddonio

The judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., McIntyre, J.

D038248 People v. Johnson

Judgment affirmed. Benke, Acting P.J.; We Concur: Huffman, J., McConnell, J.

D038514 People v. Renteria

The judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D038217 People v. Ford

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D037724 In re Darcy C., a Juvenile

The judgment is affirmed. Kremer P.J.; We Concur: Huffman, J., O'Rourke, J.

D039483 Rebecca C. v. Superior Court of the County of San Diego/San Diego County Health and Human Services Agency

The attorney for petitioner Rebecca C. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

February 28, 2002 (Continued)

D036572 People v. Stanley

The judgment of conviction for a lewd act on a child under the age of 14 as alleged in count 4 is reversed and the sentence thereon is vacated. The judgment is otherwise affirmed in its entirety. The People must, within 30 days of the issuance of the remittitur in this matter, make an election as to whether to retry Stanley on count 4. If the People elect not to retry Stanley, the superior court is directed to prepare an amended abstract of judgment consistent with this opinion and to forward a copy of the amended abstract of judgment to the Department of Corrections. McIntyre, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D037861 People v. Verduzco

The judgment is affirmed. The superior court is directed to amend the abstract of judgment to reflect that Verduzco is entitled to one additional day of custody credit and to forward a copy of the amended abstract of judgment to the Department of Corrections. Benke, Acting P.J.; We Concur: Huffman, J., O'Rourke, J.

D039155 Alberto L. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

Let a writ issue directing the juvenile court to vacate its order setting a section 366.26 hearing and to comply with the inquiry and notice requirements of the ICWA. If after receiving notice of the proceedings, no tribe or the BIA indicates that the minor is an Indian child within the meaning of the ICWA or if no tribe or the BIA replies within the statutory time period, the juvenile court shall reinstate its order. This opinion is made final immediately as to this court. (Cal. Rules of Court, rule 24(d).) Haller, J.; We Concur: Kremer, P.J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

March 1, 2002

D038100 In re David D., a Juvenile

The judgment (restitution order) is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., McDonald, J.

D037475 People v. Frederick

The judgment is reversed, and the matter remanded for resentencing in accord with the principles set out above. Huffman, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D039619 McCarthy v. Superior Court of San Diego County/Winner

The petition is denied.

D039457 Shaver v. Ecolab, Inc./Medina

The appeal filed January 14, 2002, is dismissed for failure of appellant to timely deposit costs for preparing the record on appeal. The appeal filed February 13, 2002 may proceed.